

P-414/M-92-576 ORDER APPROVING STUDY AS MODIFIED

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Cynthia A. Kitlinski
Dee Knaak
Norma McKanna

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Mankato
Citizens Telephone Company's
Proposal to Study Custom Local
Area Signalling Services

ISSUE DATE: AUGUST 28, 1992

DOCKET NO. P-414/M-92-576

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PROCEDURAL HISTORY

On May 29, 1992, Mankato Citizens Telephone Company (Mankato or the Company) sent a letter to the Commission notifying the Commission of its intent to offer ten telephone services for six months commencing in mid-August as part of a technical service study of Custom Local Area Signalling Services (CLASS).

On June 11, 1992, the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) filed a letter with the Commission objecting to the Company's assertion that Commission approval was not required to conduct its proposed trial.

On June 24, 1992, the Minnesota Department of Public Service (the Department) filed a letter also objecting to the Company's view that it could offer these services without Commission approval.

On July 6, 1992, Commission Staff sent a letter to the Company requesting that the Company not initiate the trial until after the Commission had an opportunity to address that question.

On August 18, 1992, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

Mankato's Proposal

Mankato indicated that it intended to conduct a six month technical service study of Custom Local Area Signalling Services (CLASS or CLASS Services). CLASS Services are discretionary services designed to provide specific benefits to any individual

who receives telephone calls and who subscribes to one of these services. Most of these features provide a called party with more information about incoming calls than any previously available features. Other features provide the called party with a variety of options for responding to incoming calls.

Mankato intended to offer the following CLASS Services: Automatic Callback, Automatic Recall, Customer Originated Trace, Distinctive Ringing/Call Waiting, Selective Call Forwarding, Selective Call Acceptance, Selective Call Rejection, Call Number/Name Delivery Service or Caller ID, Calling Number Delivery Blocking, and CLASSPLUS Message Waiting Indication.

Mankato clarified that the study it proposed was not a market study and would not be used to gauge consumer reaction to the CLASS Services. The Company stated that the purpose of offering the CLASS Services during the study period was twofold. First, during the trial period the Company would conduct engineering studies to determine what software and hardware changes would be needed for the services to perform as intended. Second, the trial would provide an opportunity to train Mankato personnel so that they could explain the CLASS Service functions to customers and learn to quickly and accurately address any customer problems.

Mankato stated that due to the privacy concerns associated with one of the CLASS Services, Caller ID, it would conduct the test exclusively with voluntary participants using the following guidelines:

1. Approximately 200 customers will partake in the test;
2. Participation will be completely voluntary and participants can withdraw from the test at any time;
3. Mankato will select the participants who will then be furnished, free of charge, with the equipment (CPE) that will be required for the test;
4. The Caller ID component of the CLASS services test will only identify the originating telephone number of others who volunteered to participate in the test. (The telephone numbers of nonparticipants will not be displayed when they call any of the participants.);
5. Participants will be advised that the test will be for six months after which:
 - a. The test period may be extended;
 - b. One or more of the services may be terminated; and

- c. Services may be offered pursuant to an approved Commission tariff.

Commission Authority

The Commission has reviewed Mankato's proposal, which involves the provision of CLASS Services during a six month study period, in light of its statutory responsibilities. The Commission has a responsibility to regulate telecommunications service in Minnesota in the public interest. The legislature has vested the Commission with authority to require telephone companies to furnish reasonably adequate service [Minn. Stat. § 237.06 (1990)] and, upon finding that any telephone service is in any respect unreasonable, make an Order respecting the service that is just and reasonable [Minn. Stat. § 237.081 (1990)]. Minn. Stat. § 216.A.05 (1990) authorizes the Commission to, among other things, issue such orders with respect to the conduct of businesses within its jurisdiction as the legislature itself might make. Clearly, these responsibilities apply to telephone services provided on a short-term basis as well as to permanent offerings.

The Generic Investigation of CLASS Services

CLASS Services have not yet been approved in Minnesota and some of those services have raised serious privacy concerns when considered in other states. At issue is whether certain features which allow customers greater control over their telephone traffic and give the customer information about or access to persons placing calls to the customer inappropriately breach the privacy rights of those callers. Of particular concern to the Commission in that regard are such CLASS Services as Caller ID and Automatic Recall. The Caller ID feature allows subscribers to view the name and number of an incoming call before answering. The Automatic Recall service consists of two functions: first, it gives the participant the number of the party who made the most recent call that the participant missed; second, it allows the participant to automatically return that call by dialing a code or pressing a programmed key. Simultaneously with this Order, therefore, the Commission has initiated a generic investigation into CLASS Services in a separate docket.

Commission Review of Mankato's Proposal

The focus of this Order is Mankato's proposal to study CLASS services. Mankato argued that no privacy issues were implicated by offering Caller ID as part of its study because all participants in the study would be volunteers and the Caller ID component would be altered during the study to identify only the originating telephone number of other participants.

The Company also argued that Automatic Recall, as offered during the study, would not breach any privacy rights because the

Company would alter the service so that participants would not receive the telephone number of the party who made the most recent call that the participant missed¹ unless the calling party was also a voluntary participant in the study. The Company stated that it was technically impossible to limit the automatic callback feature to returning calls made by other participants, but that this would not violate privacy of the caller because the participant would not know the identity of the caller before returning the call. The Company also stated it had been assured by local law enforcement officials in Mankato that the automatic callback feature would not compromise their investigation work because they always arrange for undercover calls to be returned on a telephone that is answered to maintain the cover. The Company offered to provide statements to this effect from the relevant local law enforcement officials. The Company clarified that the only law enforcement agencies potentially affected by Automatic Recall were local because the scope of the service was limited to the Mankato calling area.

The Commission appreciates the Company's agreement to alter Caller ID during the study so that only participants will be identified pursuant to this service. This is an appropriate response to the Commission's concerns in the limited context of a study.

Regarding Automatic Recall, the Company's agreement to disconnect the voice-back number identification aspect of its Automatic Recall service is helpful, but its indication that limiting the callback function to the participant group leaves a problem. To ensure that local law enforcement efforts are not compromised, the Commission will require Mankato to file statements from the law enforcement agencies in the Mankato service area that operation of the automatic callback feature will not compromise their investigation work. To mitigate privacy concerns of Mankato's subscribers who do not participate in the study but who may be affected by Automatic Recall, the Commission will require the Company to give notice to its subscribers as detailed in the Ordering Paragraphs.

The Department proposed several modifications to Mankato's CLASS study that the Company accepted. The Commission finds that these modifications are appropriate with only minor changes as set forth in the Ordering Paragraphs.

¹ The participant receives the number of the most recently missed caller by a process called voice-back, a recorded message activated when the participant picks up the handset.

Commission Action

The Commission will approve Mankato's study, as modified herein.

ORDER

1. The proposal by Mankato Citizens Telephone Company to conduct a ten month technical service study of Custom Local Area Signalling Services (CLASS Services) is approved as detailed in its May 29, 1992 filing with the following modifications:
 - a. Participation is to be strictly voluntary. Participants can withdraw at any time, with the termination accomplished within one working day.
 - b. No information about any callers other than those who have volunteered for the trial will be transmitted to any participant. Any failure to block the names or numbers of non-participants, or the names or numbers of participants using a blocking service, will be reported to the Commission within five working days.
 - c. Participants will receive a complete and clear written explanation of the services in the trial and their right to terminate at any time. A copy of this explanation will be filed with the Commission at least 10 days before the commencement of the trial.
 - d. Within 30 days of the end of the six month trial, Mankato will file a report on the trial. The report should include, at minimum, the comments of the relevant law enforcement agencies, if any, how consumer reactions and complaints were handled, and technical results.
 - e. At least 10 days prior to the beginning of the trial, Mankato will file a report with the Commission with the following information:
 - 1) A description of how each service works and what options, if any, will be available in the trial; and
 - 2) Confirmation that all relevant law enforcement agencies have been contacted (list them), that each service has been carefully explained to the agencies, that instructional materials have been left with the agencies, that the agencies have

been invited to communicate any concern directly with the Commission, and that the agencies do not oppose the trial.

- f. At least 30 days prior to placing any call trace related service into operation, Mankato will file a complete description concerning the disposition of the information generated by each call trace.
 - g. Before, during, and after the six month trial period, no change in the trial can be made without Commission approval.
- 2. At least 10 days before beginning the trial, Mankato shall file statements from all the law enforcement agencies in its service area indicating that operation of the Automatic Recall will not compromise their law enforcement efforts.
 - 3. At least 10 days before beginning the trial, Mankato shall issue a notice to all of its subscribers that it is conducting a 6 month study of several CLASS Services including the Automatic Recall service; that the 200 participants in that study are mostly Company employees and include some businesses; that if a subscriber places a call to any of the 200 participants in that study and the call is not answered the participants will be able to automatically return the subscriber's call; and that if subscribers have complaints or concerns regarding Automatic Recall or the Company's study, they may contact the Minnesota Attorney General's Office, the Department of Public Service, or the Public Utilities Commission. The notice shall contain the addresses and telephone numbers of those agencies. The Company shall file a copy of this notice with the Commission prior to offering the Automatic Recall service to study participants.
 - 4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)